

# CHAPTER 6

## FINAL PLAT AND SUBDIVISION IMPROVEMENT GUARANTEES

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### 6.1 Purpose and Intent

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It is the purpose and intent of this chapter to create a clear and consistent record of divisions of land and any amendments that may occur to subdivision plats, and supplemental plans and documents. It is further the purpose and intent of this chapter is to establish distinctions between subdivision plats and the supplemental sheets and documents that regularly accompany plats. This chapter creates criteria and procedures for approving amendments to plats and supplemental plans and documents. It also is the purpose and intent of this chapter to ensure the timely construction and installation of infrastructure and other improvements.

### 6.2 Final Plat

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#### 6.2.1 Applicability

The submittal, review, alteration, and vacation of all final plats, Condition of Approval sheets, and supplemental plans and documents shall comply with the standards of this section. The standards of this section also apply in certain circumstances when final plans are required, in lieu of final plats, for condominium, and mobile home or RV parks. See Section 6.3, Final Plats – Commencement of Each Phase (Approved On or After May 8, 2017).

#### 6.2.2 Submittal

A final plat shall be submitted to Missoula County that includes the plat, Condition of Approval sheets and supplemental documents required in Section 7.5, Final Plat Submittal Requirements, and any additional items required by the preliminary plat/plan conditions of approval. Submittal items shall document compliance with all conditions of preliminary plat/plan approval.

#### **6.2.2.1 Plats**

Final plats are the drawings that show the creation of lots, parcels, blocks, streets, alleys, and other elements of a subdivision, pursuant to the definition in *Chapter 2, Definitions*.

#### **6.2.2.2 Condition of Approval Sheets and Supplemental Documents**

Condition of Approval Sheets and other supplemental documents that regularly accompany plats contain planning related information, such as overlay maps of natural resources, plans and specifications for facilities and improvements, and other information related to conditions of approval. Examples of supplemental documents that regularly accompany plats include homeowners' association documents; Conditions, Covenants, and Restrictions; various agreements required by these regulations for the maintenance and/or construction of facilities and improvements, bonding or financial securities, and similar documents. See *Table 7.5, Final Plat/Plan Submittal Requirements* for more information.

#### **6.2.2.3 Remaining Tract – Phased Developments**

The remaining portion of the subdivision parent parcel shall be filed as a survey with the recording of each phase. A note shall be filed as part of the survey pursuant to *Section 7.7.1, Remaining Lots – Phased Developments*.

#### **6.2.2.4 Final Plat Checklist**

The materials necessary for the completion of a final plat checklist in conformance with Missoula County Resolution 2020-025, as amended, shall be enclosed with the plat and related supplemental information.

### **6.2.3 Information Required for Final Plats**

Final plats shall be submitted to Missoula County for review of required information pursuant to *Section 6.2.2, Submittal*. Before the final plat is accepted for review, the applicant shall pay a final plat review fee as established by the governing body. Within 20 working days of the submittal, the Planning Office shall determine if the final plat, including any accompanying Condition of Approval sheets, supplemental documents, and completed final plat checklist, as amended, has the required information to initiate final plat review. The subdivider or subdivider's agent and the Planning Office may mutually agree to extend this review period.

#### **6.2.3.1 Written Notice**

The Planning Office shall notify the subdivider of the determination by written or digital communication.

#### **6.2.3.2 Missing Information**

If the Planning Office determines information is missing from the final plat submittal the Planning Office shall identify the missing information in a written or digital notification to the subdivider. No further action shall be taken until the application is resubmitted with the missing information.

#### **6.2.3.3 Resubmittal**

Once the subdivider resubmits a final plat submittal that includes the previously missing information, the Planning Office shall have 20 working days to notify the subdivider if the submittal contains all the required information. The Planning Office may review subsequent submissions of the final plat only for information found to be deficient during the original review.

#### **6.2.3.4 Process Complete**

This process shall be repeated until the subdivider submits an application containing all of the information required by these regulations, as determined by the Planning Office.

#### **6.2.3.5 Review Period, Governing Body**

The governing body shall review and approve or deny within 20 working days any final plat deemed to have required information pursuant to *Section 6.2.4, Final Plat Review*. The subdivider or the subdivider's agent and the Planning Office may mutually agree to extend this review period.

### **6.2.4 Final Plat Review**

The Planning Office shall review the final plat for substantive compliance with the approved preliminary plat. If the Planning Office determines that there is a material change in the final plat from what was approved as a preliminary plat or determines that there are conditions which have not been met, the Planning Office shall require that a new final plat application be submitted.

#### **6.2.4.1 Minor Deviations**

The planning director shall forward the final plat, Condition of Approval sheets, and any supplemental sheets and documents even if there are minor and immaterial deviations from the preliminary plat/plan. The planning director may give consideration to minor changes that encourage environmental and public health and safety improvements. Deviations shall be deemed minor and immaterial if they comply with the following criteria:

- A.** Maintain the number of lots and basic configuration of lots;
- B.** Maintain road and pathway layouts;
- C.** Maintain the basic plans for water and wastewater;
- D.** Do not significantly alter easement provisions;
- E.** Maintain designated primary and secondary accesses;

- F. Maintain consistency with the Missoula County Growth Policy and other adopted county plans;
- G. Maintain compliance with these regulations;
- H. Preserve the intent and effect of all conditions of the preliminary plat/plan approval;
- I. Maintain the protections and safeguards provided by these regulations; and,
- J. Avoid a new impact or an increase of a previously recognized and mitigated impact on neighboring land or the overall community.

#### **6.2.4.2 Material Change**

If the Planning Office determines that the final plat, Condition of Approval sheets, or other supplemental documents contain material changes from the approved preliminary plat/plan or determines that a condition of approval has not been fully met, a new final plat submission shall be required.

#### **6.2.4.3 Appeal**

The determination of the Planning Office may be appealed to the Board of County Commissioners pursuant to *Section 5.12, Appeals of Administrative Decisions*.

#### **6.2.4.4 Review Agencies**

In addition to the Planning Office review for compliance, the final plat, Conditions of Approval sheets, and the supplemental documents shall be reviewed by departments subject to the final plat checklist, Resolution 2020-025, as amended.

#### **Info Box**

Outside agencies may be involved in review of elements related to the final plat, depending upon conditions of subdivision approval. See Missoula County Resolution 2020-025 for review responsibilities of county departments:

#### **6.2.4.5 Surveyor**

The county's examining land surveyor shall review final plats and certificates of survey for errors and omissions in calculations or drafting before the governing body's approval. Any necessary corrections shall be completed before the plat is recorded with the Missoula County Clerk and Recorder. A certificate shall be placed on the plat for the examining land surveyor's signature verifying the review for technical completeness. Minor Affidavits of Corrections can be addressed in accordance with *Section 6.6.2, Minor Errors*, before or after the examining land surveyor has signed.

## **6.2.5 Governing Body Decision**

The governing body shall review and approve the final plat, including any supplemental sheets and supplemental documents if they conform to the approved preliminary plat/plan as conditioned and the county treasurer certifies that all tax assessments have been paid.

### **6.2.5.1 Minor Deviations**

The governing body may approve a final plat and the supplemental sheets and documents if there are minor and immaterial deviations that comply with the criteria in *Section 6.2.4.1, Minor Deviations*.

### **6.2.5.2 Additional Conditions**

The governing body may not impose additional conditions as a prerequisite to final plat approval if the final plat has been submitted prior to the deadline for the submittal and the previously approved preliminary plat/plan is valid.

### **6.2.5.3 Denial**

The governing body shall deny approval of a final plat if it determines the plat and any supplemental sheets and information do not conform to the approved preliminary plat/plan or it determines a condition of preliminary plat/plan approval is not fulfilled. This denial and any resubmittal does not extend the time for which a preliminary plat/plan approval is effective or the time by which a final plat shall be approved.

### **6.2.5.4 Withdraw Approval**

The governing body may withdraw approval or disapproval of a preliminary plat if it determines that the information provided and upon which such decision was based is false or inaccurate.

### **6.2.5.5 Written Statement**

If the final plat is disapproved or a decision is withdrawn, the written statement shall include the reasons for the decision, evidence on which the decision is based, and a description of the process to appeal the decision.

## **6.2.6 Final Plat Filing Deadline**

An approved final plat, Condition of Approval sheet, and any supplemental documents, including all extension approval letters, shall be filed within 180 calendar days of the governing body's approval. Final plat approval shall be void if the plat is not filed within 180 days of approval.

## **6.2.7 Filing Extension, Less Than 1 Year**

Notwithstanding *Section 6.2.6, Final Plat Filing Deadline* and apart from the extension process described in Chapter 5, a subdivider may request and the governing body may grant an extension to the filing deadline provided the reason for the extension is beyond the subdivider's control and the governing body determines that the plat will be filed according to an agreed upon extension.

### **6.2.7.1 Written Request**

The subdivider shall submit to the Planning Office a written request for the extension that includes the reason for the extension. The request shall be submitted at least 10 working days prior to the filing deadline.

### **6.2.7.2 Maximum Extension**

The governing body may extend the filing period for no more than 180 calendar days. The governing body may grant one additional extension for no more than 180 calendar days.

### **6.2.7.3 Stay**

The counting of days toward the filing deadline shall be stayed until the governing body acts on the request.

### **6.2.7.4 Examples**

Examples of acceptable circumstances include but are not limited to the following:

#### **A. Temporary Constraints**

Temporary delay by a governmental agency in the installation or construction of public improvements.

#### **B. Funding Delay**

Time requirements in the formation or operation of an SID/RSID or bond measure.

## **6.2.8 Effects of Approval**

### **6.2.8.1 Dedications**

Final plat approval shall constitute acceptance of dedicated lands, and the certification of the governing body shall include acceptance language, if applicable. In specific instances, land dedications may be required by specific resolution of the governing body that is referenced in a note on the final plat.

### **6.2.8.2 Transfers**

A final plat must be filed with the Missoula County Clerk and Recorder before title to any land in the subdivision can be sold or transferred, except as exempted in *Section 1.7.4, Transfer of Title*.

#### **6.2.8.3 Changes After Filing**

After the final plat is recorded, the governing body may approve changes to the final plat, Condition of Approval sheet, and supplemental documents pursuant to *Section 6.7, Adjustments to Filed Plats and Related Documents*.

### **6.3 Final Plats More than 5 years from Preliminary Approval – Commencement of Each Phase (Approved on or After May 8, 2017)**

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This section applies to any phase of an approved phased subdivision submitted for final plat approval more than five years after the date of preliminary plat which was approved on or after May 8, 2017. For any phase of an approved phased subdivision submitted for final plat approval less than five years from the date of preliminary plat, which was approved on or after May 8, 2017, the final plat shall follow the process in *section 6.2, Final Plats*. Final plats for each phase shall be filed sequentially in accordance with the approved phasing plan. All phases subject to this section require review at a public hearing by the governing body. This hearing shall follow preliminary plat approval and must precede final plat approval for each phase. Phased subdivisions subject to this section shall be subject to the following:

#### **6.3.1 Written Notice**

The subdivider shall provide written notice to the Planning Office that describes the request and summarizes the primary criteria impacts, as described in Appendix E, *Review Criteria*, including any changed impacts and information regarding new potentially significant adverse impacts for the phase or phases.

#### **6.3.2 Submittal Timing**

The written notice shall be submitted to the Planning Office at least 60 working days prior to the final plat deadline of an affected phase. The counting of days toward preliminary plat expiration shall be stayed until the governing body's decision pursuant to *Section 6.2.5, Governing Body Decision*.

#### **6.3.3 Hearing Timing**

The governing body shall hold a public hearing within 30 working days after receipt of the written notice from the subdivider in accordance with [§76-3-617, MCA](#).

#### **6.3.4 New Conditions**

The governing body shall determine whether any changed primary criteria impacts or new information exists that creates new potentially significant adverse impacts for the phase or phases. The governing body may amend or impose additional conditions of approval only if it determines, based on a review of the primary criteria, that the existing conditions of approval are inadequate to mitigate the potentially significant adverse impacts identified during the original review based on changed circumstances.

#### **6.3.5 Decision**

The governing body shall approve, approve with conditions, or deny a modification request and only consider facts pertinent to the modification request before a final plat is filed.

#### **6.3.6 Written Findings**

The governing body shall issue supplemental written findings of fact no more than 20 working days after the hearing. The written statement shall document any changed primary review criteria impacts or information regarding new significant adverse impacts, and any necessary additional conditions to mitigate adverse impacts.

#### **6.3.7 Submittal of Approved Phases**

After review under *Section 6.3, Final Plats - Commencement of Each Phase*, final plats shall be submitted to the Planning Office pursuant to *Section 6.2.3, Information Required for Final Plats*.

### ***6.4 Provisions for Public and Private Improvements and Maintenance***

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#### **6.4.1 Payment for Extension of Public Improvements**

The governing body may require a subdivider to physically extend, or pay for part or all of the costs to extend, public capital facilities to a subdivision where the facilities are necessary for public health and safety. Public facilities required of the subdivider must be directly attributable to the subdivision.

##### **6.4.1.1 Type of Facilities**

Facilities that may be required for public health and safety include but are not limited to motorized and non-motorized transportation facilities, sewer lines, water supply lines, fire suppression facilities, and storm drains.

##### **6.4.1.2 Pay Back Provision**

If the subdivider is required to overbuild public capital facilities for the benefit of other subdivisions or landowners, either immediately or in the future, the county may approve a pay-back provision in which the subdivider will be reimbursed from assessments of, or payments from, other users of the facilities. The reimbursement shall approximate the costs attributed to the overbuild that exceeds the needed capacity for the subdivision.

#### **6.4.2 Private Improvements**

The subdivider shall construct all improvements within and along the frontage of the proposed subdivision that are required by these regulations.



### **6.4.3 Timing of Improvements**

#### **6.4.3.1 Before Final Plat**

Approved construction plans and/or installation of certain improvements the governing body determines to be necessary for public health and safety may be required before final plat approval. These improvements may be off-site of the proposed subdivision, requiring their extension to the subdivision, and/or within the subdivision.

#### **6.4.3.2 Commence Within 2 Years**

Substantial installation or construction of public and private improvements not required before final plat approval shall commence within 2 years of final plat approval. The installation or construction shall continue on a timely schedule to completion.

#### **6.4.3.3 County Action**

Failure to begin substantial construction within 2 years of final plat approval, or failure to continue construction to a timely completion, shall constitute grounds for the governing body to act against the subdivider's Subdivision Improvements Agreement and Financial Guarantee.

### **6.4.4 Subdivision Improvements Agreement**

The subdivider shall enter into a Subdivision Improvements Agreement with the governing body that details the construction schedule of all private and/or public facilities and improvements required by these regulations or by a condition of approval. This Agreement shall be accompanied with a financial guarantee as identified in this section if the final plat will be filed before improvements are completed. (See *Section 7.7.4, Subdivision Improvements Agreement*, for required content in this Agreement).

### **6.4.5 Alternative Guarantee Methods**

When a financial guarantee is required, the subdivider shall propose and the governing body may approve 1 or a combination of more than 1 of the following guarantee methods.

#### **6.4.5.1 Private or Public Escrow Agreements**

The subdivider deposits cash, a note, bond, or some other instrument readily convertible into cash with the county or with a financial institution approved by the governing body in an account payable to the county.

##### **A. Amount**

The amount of the deposit shall cover 125% of the cost of installing or constructing any incomplete private and/or public improvements. The amount shall be increased 3% for each year of a multi-year construction

schedule to offset inflation. The account shall be subject to an agreement between the subdivider and the financial institution and the county.

**B. Release**

The agreement shall include a provision to release funds to the subdivider as the improvements are completed and approved by the county, if applicable. The agreement must specify that funds cannot be released without the governing body's approval.

**C. Property of County**

The agreement must specify that the funds become the property of the county for the purpose of completing the improvements if the subdivider fails to complete the improvements within the approved construction schedule.

**D. Associated Costs**

The subdivider shall bear all costs associated with providing the guarantee.

**6.4.5.2 Irrevocable Letter of Credit**

The subdivider secures a letter of credit from a financial institution.

**A. Amount**

The amount of the credit must be sufficient to cover 125% of the costs of installing or constructing any incomplete private and public improvements. The amount shall be increased 3% for each year of a multi-year construction schedule to offset inflation.

**B. Creditor's Pledge**

The letter must pledge that the creditor will pay the costs of improvements should the subdivider default and that the credit cannot be revoked without the governing body's approval.

**C. Funds to County**

The letter must state that the funds guaranteed will be automatically turned over to the county if the improvements are not installed in accordance with the approved construction schedule.

**D. Associated Costs**

The subdivider shall bear all costs associated with providing the guarantee.

**6.4.5.3 Bonds**

The subdivider provides a surety bond to guarantee the funds to complete private and/or public improvements, subject to any requirements of the bonding company.

**A. Amount**

The bond shall be payable to the county and shall be in an amount sufficient to cover 125% of the costs of installing or constructing any incomplete private or public improvements. The amount shall be increased 3% for each year of a multi-year construction schedule to offset inflation.

**B. Completion**

The bond shall remain in effect until the improvements have been completed and approved by the county.

**C. Associated Costs**

The subdivider shall bear all costs associated with the providing the guarantee.

**6.4.5.4 Special Improvement Districts**

The governing body may agree to sell bonds or by some other means raise the funds necessary to finance public capital improvements until costs can be recovered through assessments against lot purchasers in the subdivision. To establish this type of guarantee, the subdivider and owners of the property to be subdivided must include in the Subdivision Improvements Agreement the following specifications.

**A. No Transfer**

No property will be sold, rented, or leased until a special improvement district is formed and the subdivider and owners will allow the governing body to create a SID/RSID for the property without protest.

**B. Waive Protest**

Each property owner within the subdivision waives the right to protest the creation of a SID/RSID for capital improvement projects, and the governing body shall identify the specific capital improvements for which protest is waived. A waiver of a right to protest shall expire 20 years after the date the final plat is filed with the Missoula County Clerk and Recorder unless the governing body approves an earlier date.

**6.4.5.5 Encumbrance Upon Real Property**

The subdivider encumbers as collateral lots within the subdivision or other real property owned by the subdivider.

**A. Value**

The value of the collateral shall be enough to cover 125% of the costs of installing or constructing any incomplete private and/or public improvements. The value shall be increased 3% for each year of a multi-year construction schedule to offset inflation.

**B. Appraisal**

The value of the collateral shall be determined by an appraisal completed within 6 months prior to final plat approval by an appraiser licensed to practice in the State of Montana.

**C. No Encumbrances**

Real property will be acceptable as collateral if the subdivider owns the property free and clear of all encumbrances.

**D. 80% Equity**

The estimated amount of the improvements guarantee is no greater than 80% of the subdividers' equity in the property.

**E. Beneficiary**

If appropriate, the subdivider shall prepare the Improvements Guarantee Agreement and a Montana Trust Indenture naming Missoula County as the beneficiary.

**F. Waive Incremental Increase**

The subdivider must provide a waiver of any right to incremental release of the security unless multiple parcels are provided as security.

**G. Associated Costs**

The subdivider shall bear all costs associated with providing the guarantee.

**6.4.6 Incremental Payment or Guarantee Plan**

The governing body may agree to incremental payments or incremental guarantees when the increments correspond with a phased construction schedule.

**6.4.7 Release of Money or Property Held Under Guarantee**

As improvements are completed, the subdivider may apply to the governing body for release of part of the financial guarantee or collateral. Upon completion of all private and/or public improvements, all financial guarantees and collateral shall be released to the subdivider.

**6.4.7.1 Inspections**

Prior to the release of any financial guarantee or collateral, the improvements for which the release is requested shall be inspected and approved by the county for compliance with approved plans and specification.

**6.4.7.2 List Deficiencies**

If the governing body determines that any of the improvements are not constructed in substantial compliance with specifications, the subdivider shall be provided a list of specific deficiencies and the governing body shall be entitled to withhold guaranteed funds or collateral sufficient to ensure compliance.

#### **6.4.7.3 Withdraw Funds**

If the governing body determines that the subdivider will not construct any or all of the improvements in accordance with all of the specifications, or has reason to believe that the subdivider cannot complete the improvements, the governing body may withdraw funds from the financial guarantee or collateral in an amount sufficient to construct the improvements in accordance with the specifications contained in the conditions of subdivision approval.

#### **6.4.8 Provisions for Maintaining New Roads**

The subdivider may be required to establish an SID/RSID to provide for adequate maintenance of all roads established in an approved subdivision.

##### **6.4.8.1 Plat Note**

A statement shall be included on the subdivision plat or Condition of Approval sheet stating that acceptance of a deed for a lot within the subdivision shall constitute the assent of the owners to any future SID/RSID, based on benefit, for upgrading and/or maintaining the streets within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening and drainage facilities. The acceptance of a deed may be used in lieu of their signatures on an SID/RSID petition.

##### **6.4.8.2 Developer Responsibility**

If required to establish a SID/RSID, the developer shall maintain the new roads until the SID/RSID is capable of maintaining the roads. A written agreement shall document this responsibility and describe the method to transfer the maintenance responsibility to the SID/RSID or Homeowner's Association and the acceptance of the responsibility.

#### **6.4.9 Warranty of Improvements**

The subdivider shall provide a 1-year warranty for all private and/or public improvements required by these regulations and any conditions of subdivision approval. The warranty must commence at the time the improvements are accepted by the County.

### **6.5 Vacating Recorded Plats**

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To remove or vacate a plat from the county land records, the following procedure must be used:

#### **6.5.1 Petition**

A petition for vacating a plat must be presented to the governing body specifically identifying the plat to be vacated and stating that petitioners are the owners of all land in the plat to be vacated and that no rights of any person have intervened since the plat was filed which would be adversely affected by the cancellation or annulment of the plat.

### **6.5.2 Public Hearing**

The governing body must hold a public hearing on the plat vacation.

### **6.5.3 Public Notice**

Public notice of the hearing must be given by posting in 3 public places and publishing in a newspaper of the general circulation in the county at least 1 week prior to the hearing on the petition. Notice of the public hearing also shall be delivered by certified mail to everyone with an interest in the subdivision to be vacated, including the landowners and mortgage holders.

### **6.5.4 Decision**

The governing body's decision to approve or deny the petition for plat vacation shall be based on public interest factors, including those that are relevant to vacating public roads. The governing body shall consider the following in making its decision:

#### **6.5.4.1 Pattern of Platting**

The pattern of any platted lots in the area and how the requested vacation may affect these lots;

#### **6.5.4.2 Original ROW**

The manner in which any right-of-way to be vacated was originally dedicated, granted or conveyed;

#### **6.5.4.3 Reasons**

The reasons stated in the petition requesting the vacation; and,

#### **6.5.4.4 Neighbor Agreement**

Any agreement between the adjacent property owners regarding the use of the vacated area.

### **6.5.5 Streets, Alleys**

A decision to vacate a subdivision shall designate to which properties land previously platted as streets and alleys must revert and that interior streets may pass to the adjoining landowners, with each adjoining landowner taking title to the center of the street.

## **6.6 Error Correction Procedure**

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Final plats and certificates of survey shall be reviewed by the Examining Land Surveyor for errors and omissions in calculations or drafting before the plat is recorded with the Missoula County Clerk and Recorder. Any errors on the plat or the certificate of survey shall be resolved pursuant to this section.

### **6.6.1 Classification of Errors**

The Examining Land Surveyor shall determine if any errors are minor or major errors.

### **6.6.2 Minor Errors**

Minor errors may include but are not limited to:

**6.6.2.1** Typographical and spelling errors or transpositions;

**6.6.2.2** Incorrect seals;

**6.6.2.3** Incorrect dates;

**6.6.2.4** Monumentation incorrectly noted, drawn, or missing;

**6.6.2.5** Incorrect or missing interior bearing(s) and/or dimensions(s) on the drawing;

**6.6.2.6** Missing or incorrectly displayed arrows or symbols;

**6.6.2.7** Street name changes;

**6.6.2.8** Title of plat already in use; and,

**6.6.2.9** Other items of a similar nature as determined by the Examining Land Surveyor.

### **6.6.3 Review Procedure for Correcting Minor Errors**

Corrections of minor errors may be approved by the Examining Land Surveyor.

#### **6.6.3.1 Affidavit**

An Affidavit of Correction shall be prepared, signed, and sealed by a professional land surveyor on forms recorded with the Office of the Missoula County Clerk and Recorder.

#### **6.6.3.2 Fees**

Property owners who may petition the county for a correction of a filed subdivision plat shall pay all direct and related costs incurred by the county to process the correction, including filing fees according to the currently adopted fee schedule.

### **6.6.4 Major Errors**

Major errors may include but are not limited to:

#### **6.6.4.1 Legal Description**

Additions to or deletions from the legal description of dedicatory language that are not typographical in nature;

#### **6.6.4.2 Incorrect Certificates**

Incorrect certificates or signatures;

#### **6.6.4.3 Missing Certificates**

Missing certificates, seals, or signature blocks; and,

#### **6.6.4.4 Similar Items**

Other items of a similar nature as determined by the Examining Land Surveyor and the Planning Office.

#### **6.6.5 Review Procedure for Correcting Major Errors**

Major errors shall be reviewed by the Examining Land Surveyor and the Planning Office.

##### **6.6.5.1 Corrected Plat**

All corrected plats shall be reviewed in accordance with in *Section 6.2.4, Final Plat Review*.

##### **6.6.5.2 Fees**

The property owners petitioning for the amendment or correction of a filed subdivision plat shall pay all related direct costs incurred by the county, including filing fees according to the currently adopted fee schedule.

#### **6.6.6 Appeal**

The Examining Land Surveyor's decision may be appealed to the Board of County Commissioners pursuant to *Section 5.12, Appeals of Administrative Decisions*.

### **6.7 Adjustments to Filed Plats and Related Documents**

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#### **6.7.1 Purpose and Intent**

The purpose and intent of this section are to accommodate the modest changes to plat elements, supplemental plans/documents that accompany a filed plat, or the conditions of approval of a filed plat. The changes become necessary and practical as a result of changing conditions in the community or the neighborhood of the subdivision, or new information. It is the intent that these changes maintain the intent of the previous approval.

#### **6.7.2 Adjustment Defined**

An adjustment grants minor relief from conditions of approval or facilitates minor changes to the details of a filed plat when the nature of the adjustment and the absence of an impact on neighboring properties or the community warrant a process for submittal, review, and a decision by the governing body.

#### **6.7.3 Applicability**

Any adjustment requested pursuant to *Subsection 6.7.2, Adjustment Defined*, is subject to this section. Adjustments may be approved for the following elements of a filed plat pursuant to this section:

##### **6.7.3.1 Plat Elements**

Elements of filed plats.



**6.7.3.2 Conditions**

Conditions of subdivision approval.

**6.7.3.3 Supplement Sheets, Documents**

Information on supplemental sheets or documents.

**6.7.3.4 Approval Sheets**

Conditions of Approval sheets.

**6.7.3.5 CCR**

Filed covenants, conditions and restrictions.

**6.7.4 Criteria**

Filed plat adjustments shall comply with the following criteria:

**6.7.4.1 Minor Nature**

The adjustment is minor when viewed in the context of the neighborhood and overall community, and its effect is generally limited to the subdivision.

**6.7.4.2 Comply with Regulations**

The adjustment shall not cause the approved subdivision to fall into noncompliance with these regulations or any other applicable law, regulation, or code.

**6.7.4.3 Protections**

The adjustment will not reduce the protections or safeguards provided by these regulations, including but not limited to the protection of natural resources, neighboring properties, and the overall community.

**6.7.4.4 No Impacts**

The adjustment shall not create any new impact or the increase of a previously recognized and mitigated impact on the neighboring land or the overall community.

**6.7.4.5 Growth Policy**

The adjustment shall not cause the approved subdivision to become inconsistent with the currently adopted *Missoula County Growth Policy*.

**6.7.4.6 Consistent with Findings**

The adjustment shall be fundamentally consistent with the findings of fact and conclusions of law adopted for the filed plat, except in certain situations where

**Info Box**

Many covenant provisions are unrelated to subdivision approval by the Board of County Commissioners and are not subject to this process. These sections of the covenants may be amended without governing body approval. Check the “amendments” section of the covenants.

the circumstances giving rise to the adjustment justify revised findings and conclusions of law.

**6.7.4.7 Not Incremental**

The requested adjustment is not part of a series of such adjustments and variances for the same subdivision, nor is it the first in a potential series of adjustments and variances.

**6.7.4.8 Changes to Subdivided Area**

The requested adjustment stems from environmental or contextual changes to the area proposed for subdivision since the recording of the plat.

**6.7.4.9 Economic Changes**

Economic changes since the recording of the plat may not be considered under this section.

**6.7.4.10 Administrative Minor Subdivision**

The requested adjustment of an approved final plat of an administrative minor subdivision shall not result in the subdivision being out of compliance with *Section 5.5.1, Applicability*.

**6.7.5 Procedure**

**6.7.5.1 Initiation**

The subdivider shall submit to the Planning Office a written or emailed request for a filed plat adjustment. The request must include a digital submission that describes and illustrates the proposed adjustment.

**6.7.5.2 Pre-submittal Meeting**

The Planning Office shall schedule a pre-submittal meeting with the subdivider within 10 working days of receipt of the request. The purpose of the meeting is to identify the submittal materials that will be needed to determine compliance with this section.

**6.7.5.3 Submittal**

After the pre-submittal meeting, the subdivider shall submit to the Planning Office 1 paper copy and 1 digital copy of the materials identified in the pre-submittal meeting.

**6.7.5.4 Agency Comment and Staff Review**

The Planning Office may distribute the requested adjustment to public agencies for review and comment, if applicable, and then perform a review and prepare a staff report pursuant to *Section 5.8.9, Staff Review, Staff Report*.

**6.7.5.5 Public Meeting and Notice**

Proposed adjustments to subdivisions shall be subject to a public meeting before the Board of County Commissioners. A legal ad is required for adjustment to major subdivisions.

**6.7.5.6 Governing Body Consideration, Decision**

Upon receipt from the Planning Office of a subdivider's request for an adjustment, the staff report, and a Planning Board recommendation in the case of a major subdivision, the governing body shall consider the requested adjustment. After the close of the public hearing in the case of a major subdivision, or at the public meeting for a minor subdivision, the governing body shall decide to approve, approve with conditions, or deny the requested adjustment.

**6.7.5.7 Written Statement**

A written statement of the decision shall be placed in the records of the governing body and forwarded to the subdivider and Planning Office. If the requested adjustment is denied, the written statement shall include the reasons for the decision, evidence on which the decision is based, and a description of the process to appeal the decision.

**6.7.6 Record Documents**

Any recorded documents that are modified by an adjustment shall be revised and then filed with the Clerk and Recorder within 180 calendar days of the governing body's approval. The approved adjustment shall be void if the applicable documents are not filed within 180 days of approval.